

1 services, and I've tried to provide specific responses as best
2 I can to that. When you ask me a question about, you know,
3 what does a lawyer have to do, I can tell you generally I
4 believe this is what he needs to do, and this is what I tried
5 to do. And that's why I'm trying to, to make the difference
6 between the two for you.

7 Q Is it, is it --

8 A I'm not trying to be difficult.

9 Q No, I, I never suggested you were. If I thought you
10 were being difficult, I would, I would tell you that. I'm
11 just, I just want the record here to be full and, and, and be,
12 be complete. And that's all I'm trying to do, Mr. May,
13 nothing more than that.

14 A All right. I want the same things, Mr. Cohen.

15 Q Okay. Is, is it, is it a fair statement then that
16 whenever there was a matter which -- involving conflict --
17 strike that. I think the record will best be as -- speak for
18 itself on that issue. Now in your conversation with
19 Mr. Juggert, you told me a moment ago that he represented
20 Oceana for -- in some matters, is that correct?

21 A Yes, sir.

22 Q Okay. Did, did, did Mr. Juggert, in your
23 conversation with him, acknowledge that he, too, had a
24 conflict regarding your discussion of Oceana?

25 A Yes, sir.

1 Q Did he tell you how he was going to deal with that
2 conflict?

3 A In general terms, yes, that he would disclose it to
4 the client and that the client would make a decision as to
5 whether he wanted Mr. Juggert to, to be the party who would
6 continue in, in the transaction.

7 Q And clearly then you weren't troubled by discussing
8 this Oceana matter with a, with, with Mr. Juggert, knowing he
9 had a conflict?

10 A It was his conflict to resolve and if he felt if he
11 had, I was certainly comfortable with it.

12 Q Now Mrs. Duff or -- neither Mrs. Duff, nor
13 Dr. Crouch, nor Mr. Juggert, ever suggested that you should
14 discuss these conflicts with NMTV directors who were not
15 employees of TBN, am I correct?

16 A Not that I recall, sir.

17 Q Now so the record is clear, when the petition to
18 deny was filed against the Wilmington proceeding, that was the
19 time -- it was, it was after the filing of that petition that,
20 that the conversation that you testified earlier with Reverend
21 Aguilar occurred, is that correct?

22 A Yes.

23 Q And the petition to deny raised questions which --
24 strike that, strike that. What, what aspect of the petition
25 to deny caused you to raise conflict questions in a

1 conversation in which Mr. Aguilar participated?

2 A The fact of its filing. It was challenging the
3 relationship, the propriety of the relationship between
4 Trinity Broadcasting and National Minority, and I was
5 representing both.

6 Q And so that's when you thought it was appropriate to
7 bring it to, to Mr. Aguilar's attention?

8 A That's when it was brought to his attention. Well,
9 let me say it this way, that's when I remember speaking or he
10 was at a meeting at which we spoke about that. I guess I
11 can't say that's when it was brought to his attention. I mean
12 it may have been brought to his attention prior to or in
13 another meetings than just that, that meeting.

14 Q To your knowledge, did, did Mr. Aguilar have any
15 knowl-- strike that. Insofar as you know, prior to that
16 telephone conversation, did Mr. Aguilar have any knowledge of
17 your conflict of interest?

18 A Now you've referred me to a telephone conversation.
19 I don't --

20 Q I thought you testified earlier that this came
21 about, his -- the revelation to Reverend Aguilar came about in
22 a telephone conversation. That's what I thought you testified
23 to. Strike that. Let's start again.

24 A Well, no, what I said was that I, I think we had a
25 meeting at which it was discussed. He may also -- now that

1 | you say it, it may have also been a phone conversation,
2 | because I had some phone conversations or conference calls at
3 | which Reverend Aguilar did participate, following the filing
4 | of the challenge in Wilmington.

5 | Q Okay. I -- my recollection -- let's, let's review
6 | this, because my recollection may be in error, okay. And my
7 | recollection doesn't count, it's your recollection, so let's
8 | start at the top. Tell me when do you recall that you
9 | advising Reverend Aguilar for the first time of the conflict
10 | that your law firm had?

11 | A It would have been after the filing of the challenge
12 | of the Wilmington matter, which I believe occurred in May of
13 | 1991.

14 | Q And did that occur in a face to face meeting or in a
15 | telephone conversation?

16 | JUDGE CHACHKIN: What difference does it matter,
17 | Mr. Cohen?

18 | MR. COHEN: Well, the reason that it matters, Your
19 | Honor, is I want to try to find out whether Mrs. Duff or, or
20 | Mr. Crouch ever told Mr. May prior to that time that they had
21 | advised Mr. Aguilar of such a conflict, and so I was just
22 | trying to be thorough. But if you don't think it's important,
23 | I'll, let's, I'll just ask the question.

24 | BY MR. COHEN:

25 | Q Prior to the time that you had that conversation

1 with Mr. Aguilar, had either Mrs. Duff or Reverend -- or, or
2 Dr. Crouch told you that they had advised Reverend Aguilar of
3 any conflict?

4 A Not that I recall.

5 Q Thank you. Am I correct that during the period of
6 time that your firm has represented both NMTV and TBN, that
7 you have never found a con-- conflict of interest that caused
8 you not to represent both clients?

9 A Are we excluding my participation here as a witness
10 in the case?

11 Q Yes, yes. Yes.

12 A Then I don't recall any, sir.

13 Q Now I want to ask you about Mass Media Bureau's
14 Exhibit 114.

15 MR. TOPEL: It's in Volume Three.

16 BY MR. COHEN:

17 Q Volume Three.

18 A Did you say 114 or 13?

19 Q One, one, one, four.

20 A Thank you.

21 Q That's an affiliation agreement between TBN and All
22 American. Do you see that?

23 A Yes, sir.

24 Q Now did you represent All American in connection
25 with the negotiation of that agreement?

1 A I was representing All American at this time, yes,
2 sir.

3 Q Now your law firm represents Jacksonville Education,
4 is that correct or am I incorrect?

5 A Could you repeat the name that you said?

6 Q Well, I'll, I'll get the exact name. Jacksonville
7 Educators Broadcasting, Inc.

8 A Yes, sir.

9 Q You, you repre -- your law firm represents that
10 entity, correct?

11 A Yes, sir.

12 Q Okay. And Jacksonville has an affiliation agreement
13 with Trinity, correct?

14 A Yes, sir.

15 Q Okay. And did you represent Jacksonville in
16 connection with the negotiation of that agreement?

17 A I don't recall that we did, or that I did.

18 Q Well, were you repre-- were you representing
19 Jacksonville when the affiliation agreement was signed?

20 A I believe so, yes, sir.

21 Q And your law firm represents Community Educational
22 Television, Inc., correct?

23 A Yes, sir.

24 Q And that entity has an affiliation agreement with
25 TBN, is that right?

- 1 A Yes, sir.
- 2 Q And were you representing Community Educational
3 Television, Inc. when they signed an affiliation agreement
4 with TBN?
- 5 A Yes, sir.
- 6 Q And Oceana has an affiliation agreement with TBN,
7 correct?
- 8 A Yes, sir.
- 9 Q And you represented Oceana when it negotiated its
10 affiliation agreement with TBN, correct?
- 11 A Yes, sir.
- 12 Q And Prime Time Video, is that a client of your law
13 firm?
- 14 A No, sir.
- 15 Q Sunlight Broadcasting Systems, is that a client?
- 16 A No, sir.
- 17 Q Has it ever been a client?
- 18 A No, sir.
- 19 Q Was Prime Time Video ever a client?
- 20 A No, sir.
- 21 Q Radiant Life Ministries, is that entity a client of
22 your law firm?
- 23 A Yes, sir.
- 24 Q And it's an affiliate of TBN, is that correct?
- 25 A Yes, sir.

1 Q And was your law firm representing Radiant Life
2 Ministries when it entered into the affiliation agreement?

3 A Yes, sir.

4 Q Is the affili-- if you can recall, is the
5 affiliation agreement with each of the entities I just asked
6 you about five -- a period of five years?

7 A I, I don't know, sir.

8 Q I want you to -- I'd like you to look at Mass Media
9 Bureau Exhibit 239.

10 MR. TOPEL: Volume Four --

11 (Asides.)

12 MR. COHEN: Now this is a retainer -- a letter
13 concerning retainer agreement, do you see that?

14 MR. MAY: I'm sorry, I must be in the wrong place.
15 Did you say 234?

16 MR. TOPEL: Do I have the --

17 JUDGE CHACHKIN: 239.

18 MR. MAY: Oh, 239, I'm sorry.

19 BY MR. COHEN:

20 Q I, I didn't mean to mislead you.

21 A I have it.

22 Q Now a copy of this letter was not sent to David
23 Espinoza, was it?

24 A I don't believe so.

25 Q Why did you not copy David Espinoza on this letter?

1 A It never occurred to me to do so.

2 Q Have you ever sent any NMTV director who was not an
3 employee of TBN any statement -- any copy of statement for
4 services rendered by your law firm to NMTV?

5 A I don't recall that I've done that.

6 Q I didn't hear your answer.

7 A I, I don't recall that I've done that.

8 BY JUDGE CHACHKIN:

9 Q I recall your previous testimony that when you dealt
10 with NMTV, you dealt with Ms. Duff, is that correct?

11 A Generally, yes, sir.

12 Q Well, this is one instance where you dealt with Mr.
13 Crouch, both with respect to Trinity and NMTV and CET invol--
14 insofar as a concerned retainers, your law firm's retainer,
15 did you not?

16 A Yes, sir.

17 Q So this was contrary to what you said you did as a
18 general rule, as far as retainers are concerned?

19 A Yes. But I also had occasion to talk to Mrs. Duff
20 about the nature of, of this arrangement here in February of
21 '89. This letter is, is directed to Dr. Crouch, but I, I did
22 have occasion to speak to Mrs. Duff as well.

23 Q You were aware, were you not, that Ms. -- the work
24 Ms. Duff did for Mr. Crouch in connection with Trinity?

25 A Yes, sir.

- 1 Q You were aware of that?
- 2 A Yes, sir.
- 3 Q And you still felt that when you spoke to Ms. Duff,
4 you were speaking to someone independent of Trinity?
- 5 A Yes, sir.
- 6 Q On what basis did you -- do you base that, in light
7 of the work she did as assistant to the president of Trinity?
8 How could you reach the conclusion that she was independent of
9 Trinity?
- 10 A Because she was a director of National Minority.
- 11 Q What does that mean? She was also at one time a
12 director of Trinity too, was she not?
- 13 A Yes, sir.
- 14 Q Well, at the time she was director of Trinity and a
15 director of National Minority or Translator TV, did you feel
16 then that she was also independent?
- 17 A Yes.
- 18 Q And could deal -- and act, could act for both the
19 companies?
- 20 A Yes, sir.
- 21 Q Independently?
- 22 A Yes, sir.
- 23 Q Notwithstanding that their interests might conflict?
- 24 A No, sir.
- 25 Q You don't feel their interests ever conflict, is

1 that it?

2 A No, I think at a lot of times they may have
3 conflicted, but I thought that she could fulfill her
4 responsibilities in both instances.

5 Q How? If you, if you, if you concede that their
6 interests could conflict and if she's director of both
7 companies, then how could she fulfill her, her
8 responsibilities to both companies at the same time?

9 A Her roles and responsibilities in the way in which
10 she did for National Minority were different from those that
11 she did for Trinity Broadcasting Network.

12 Q In what way?

13 A Well, she was a director of National Minority, and
14 at National Minority she was responsible for virtually every
15 policy and every procedure that that company went through, no
16 matter what it was engaged in, an FCC application,
17 construction of a facility, etc. But for the Trinity
18 Broadcasting Network, she did not have the same roles or
19 responsibilities.

20 Q Well, that's not -- isn't it, isn't it a fact that
21 one of her main responsibilities for Trinity was in the
22 low-power area?

23 A Yes.

24 Q And wasn't her main responsibilities as far as
25 National Minority also in the low-power area?

1 A It was the low-power applications in this regard.

2 Q Low-power applications, yes.

3 A Yes.

4 Q And you didn't think that where she was both working
5 for low-power applications for both the Trinity and National
6 Minority, that there was a potential conflict as to which she
7 was representing at the time she made a recommendation as to
8 which community to serve on behalf of one or the other?

9 A She made those recommendations to her board at
10 National Minority. I don't know exactly whether she made the
11 same recommendations to the board of Trinity Broadcasting.
12 And to the extent that she had different roles and
13 responsibilities as between the two companies, well, I, I'm
14 certainly comfortable in the fact that she may have,
15 nevertheless, been employed by Trinity but still was capable
16 of performing her responsibilities as a director of National
17 Minority.

18 Q And what do you base that on, insofar as they both
19 were filing low-power applications -- or at least I should say
20 National Mari-- Minority is filing low-power applications and
21 Trinity was only buying them, was only getting assignments of
22 low-power applications. When you felt that in making the
23 determination as to whether to go to acquire a low-power
24 application on behalf of, of Trinity, or to apply for a low-
25 power application on behalf of Minority, there was no

1 potential conflict?

2 A I, I -- never occurred to me that she was not
3 capable of being able to perform companies for both companies,
4 so I guess I didn't see that as being a conflict which would
5 have precluded her ability to do both.

6 Q Let me ask you this question. When do you consider
7 a conflict would exist in a situation like we have here, where
8 a person is wearing one hat as an assistant to the president
9 and is wearing the other hat as a director of another company?
10 Can you conceive under any circumstances that there would be a
11 conflict, or is it your position that there never could be a
12 conflict?

13 A No, I suppose there could be many instances.

14 Q Well, give me an example in your judgment where you
15 feel, as a lawyer, there would be a conflict.

16 A Well, for example, if, if anybody at Trinity had
17 ever said to Mrs. Duff as a consequence of you being an
18 employee here, you shall do this at National Minority. In
19 that instance, I think she would have had a large conflict as
20 to whether she could fulfill her responsibilities at National
21 Minority and, at the same time, fulfill her responsibilities
22 at TBN. And as long as there was an instance in which TBN was
23 not abusing its position as her employer, and as long as she
24 was fulfilling her responsibilities as a director of National
25 Minority, I didn't think that these were conflicts that were

1 insurmountable. And people serve on boards of directors as
2 individuals.

3 Q But, but she was employed by, by Trinity and she
4 earned a salary at Trinity.

5 A Yes, sir.

6 Q And her boss, at the potential of firing her for --
7 if she did something contrary to what he believed were the
8 goals of Trinity, isn't that true?

9 A He could have done that, I suppose, yes.

10 Q Well, wasn't this -- well, isn't this a potential
11 conflict, the fact that he could discharge her if she did
12 something at National Minority which was contrary to the goals
13 of, of Trinity? Didn't you ever consider that?

14 A I nev-- never happened.

15 Q I didn't say whether it happened or not, I said
16 isn't this a potential conflict, the fact that it could
17 happen, that if she took a position at National Minority which
18 was contrary to Reverend Crouch's professed goals, isn't that
19 a potential conflict?

20 A I suppose it's a potential conflict, but, I mean, it
21 just -- that's not the reality that existed for these, for
22 these people. I mean Mrs. Duff, who I've known for a long
23 time, is a very capable person and it never struck me that the
24 nature of her relationship between the two was so compromised
25 that she couldn't fulfill her responsibilities, and those

1 responsibilities were very different as between what she was
2 required to do and what she did do on behalf of National
3 Minority versus what she was doing in her role as an employee
4 of Trinity Broadcasting Network.

5 Q How were, how were her responsibilities different?
6 Wasn't the ultimate goal to acquire low-power and translator
7 stations? That was the ultimate goal of both Trinity, of
8 Reverend Crouch, who was trying to acquire more outlets for
9 his broadcasts, and of National Minority. So how could you
10 say that their responsibil-- her responsibilities were
11 different, since their goals were exactly the same, weren't
12 they?

13 A Well, I mean, Your --

14 Q To acquire additional outlets for Reverend Crouch to
15 broadcast his point of view. Isn't that fact -- isn't that
16 true?

17 A Your Honor, at National Minority, Mrs. Duff has
18 responsibilities reaching to negotiation of contracts and
19 agreements that she didn't have responsibility for at NM -- at
20 TBN. She was responsible for Personnel and employee matters
21 she was not responsible for at TBN. There was a whole host of
22 items that she was responsible.

23 Q But these, these were all means to a goal. The goal
24 was to acquire more outlets for, for Reverend Crouch. Isn't
25 that true? Wasn't that the whole purpose of the existence of

1 National Minority? To acquire additional outlets, whether it
2 low-power or translators, for Reverend Crouch. Wasn't that
3 identical to what Trinity's goals were? Provide further
4 outlets for Mr. -- for Reverend Crouch.

5 A The goals of National Minority were to file and
6 acquire broadcast facilities.

7 Q For what purpose?

8 A But it was also to --

9 Q For what purpose? For what purpose were these
10 stations were to be acquired? For, for National Minority to
11 put on independent programming or for the sole purpose of
12 providing further outlets for Reverend Crouch? What were the
13 purp-- it was identical, was it not?

14 A In the context of the television translators, they
15 are the same because television translators, by definition,
16 don't provide any local programming.

17 Q And what about low-power, wasn't that the same?

18 A To the extent that you have a low-power facility
19 that independently originates programming, that could very
20 different.

21 Q But was it -- in this case, wasn't the goal of
22 National -- wasn't National Minority established for the
23 purpose of acquiring stations by the use of applying for
24 stations by claiming a minority preference, which, which,
25 which Reverend Crouch could not do with TBN. Isn't that the

1 purpose for which National Minority was established?

2 A Well, I -- Your Honor, in 1980, when that company
3 was established, I was not specifically part of the
4 incorporation process. I, I do know and knew shortly after it
5 was formed that that company had, as one of its stated
6 purposes, to involve minorities to be able to come in and to
7 be able to sit at the board room of where the majority
8 community of America had sat for many, many years, so that
9 they could essentially learn on the job as they went. That
10 was part of what they were doing. To the extent that they
11 were filing for translator facilities, by definition, the
12 programming is not locally originated and, therefore, it's
13 going to come from some source, whether that source comes from
14 Trinity or whether it came from ABC, but it had to come from
15 some source.

16 Q Well, where did it come from? Where -- what was the
17 source that it came from all the time?

18 A They intended that -- in the applications they
19 filed, they disclosed that it was to come from the Trinity
20 Broadcasting Network.

21 Q I understand that. But, sir, how could you tell me
22 that they -- you're telling me about Personnel, the, the ends
23 of both corporations were to acquire outlets for, for Reverend
24 Crouch, isn't that true? That's what they were -- that's what
25 Na -- that's what National Minority was established for.

1 A Well, I suppose it's, it's the reference to
2 personalize it just to Dr. Crouch. I mean there -- this is --

3 Q Or Trinity. Or Trinity Broadcast Network.

4 A I mean these are companies that were engaged in
5 religious business, if you will. And, yes, I, I suppose that
6 in that sense they were there and designed to go out and to be
7 able to provide a religious broadcast service, and that's what
8 they did.

9 Q But it wasn't just a religious broadcast service, it
10 was to spread the faith that Reverend Crouch professes, as
11 opposed to some other religious broadcast. Isn't, isn't that
12 what -- didn't they have identical goals?

13 A They had --

14 Q That was the identical goal of both companies?

15 A Every application that was filed by, by Television
16 Translator or later National Minority was going to receive
17 Trinity Broadcasting Network's signal. But I -- it's not a, a
18 faith. I mean Dr. Crouch doesn't have a faith. He's a
19 minister of the Christian gospel. I mean it's not the
20 religion of Dr. Crouch.

21 Q But they were going to spread the message that
22 Dr. Crouch was, was broadcasting, isn't that true?

23 A They were going to rebroadcast the programming of
24 the Trinity Broadcasting Network, yes, sir.

25 Q That was the identical goal. So, so Ms. Duff and,

1 and Reverend Crouch were both on the same wavelength, aren't
2 they? Isn't that true?

3 A I suppose. Yes, I believe that's probably true.

4 Q Go ahead, Mr. Cohen.

5 BY MR. COHEN:

6 Q Wasn't it always intended from the time that you
7 became involved in representing Trans-- Television Translator,
8 Inc., that NMTV would carry the programming of TBN, or TTI
9 would carry the programming of TBN?

10 A Do you mean now in the context of its low-power
11 television translator applications?

12 Q Absolutely.

13 A Yes. Yes, sir.

14 Q And I want to ask you some questions about fiduciary
15 responsibilities. Now you're an attorney and you've been
16 advising -- you've been counsel for two corporations, so I
17 take it that you are aware of the fiduciary responsibility of
18 directors?

19 A I'm doing the best I can.

20 Q Now did you ever, in connection with representing
21 NMTV, give advice to Mrs. Duff as to what her fiduciary
22 responsibilities were to NMTV vis-a-vis her dual role as a
23 director of TBN until 1984 and a director of NMTV, which was
24 then TTI, did you ever give her any advice concerning her
25 fiduciary responsibility?

1 A I don't know that that issue ever, ever came up in
2 that context, so I can't say.

3 JUDGE CHACHKIN: The question is did you or did you
4 not?

5 MR. MAY: I can't recall ever doing that.

6 BY MR. COHEN:

7 Q Did you ever give Mrs. Duff any advice concerning
8 her fiduciary responsibilities as a director of Translator
9 Television, Inc. when she resigned from the board of TBN but
10 continued as an employee?

11 A No, sir.

12 Q Did you ever advice Dr. Crouch as to his fiduciary
13 responsibilities as a direct -- as a director of TTI and
14 simultaneously being a director of TBN?

15 A Not that I can recall, no, sir.

16 Q Now I want to turn to a different area, if we could.
17 I want to ask you some questions now about the claim for
18 minority preference and diversity preference. And perhaps we
19 should focus on a particular application. If you would look
20 -- will you look at Bureau Exhibit -- let's look at Bureau
21 Exhibit 72.

22 (Asides.)

23 Q This is an application -- or a certification,
24 rather, filed in 1984. Do you have that in front of you? To
25 serve Philadelphia.

1 A Yes, sir.

2 Q Okay. And what I, what I want to ask you to do, Mr.
3 May, is please turn to the certification.

4 JUDGE CHACHKIN: What page is that?

5 MR. COHEN: Two. Two, Your Honor.

6 JUDGE CHACHKIN: Two? All right.

7 BY MR. COHEN:

8 Q And this application was filed over the cover letter
9 of your law firm. Do you see that? Or the certification,
10 rather, it's not an application, but the certification was
11 filed by your law firm, correct?

12 A Yes.

13 Q Okay. Now am I correct that you advised Mrs. Duff
14 that it was correct for her to sign an application where the
15 minority preference could be claimed by Translator TV, Inc.?

16 A Yes, sir.

17 Q I'd like you to state for the record, if you will,
18 Mr. May, what your basis was for that advise.

19 A That the board of directors of National Minority had
20 a majority number of which were recognized minorities.

21 Q And am I correct that you continued to render the
22 same advice to Mrs. Duff until sometime in 1991 or 1992, aft--
23 when this matter was before the Commission and then you ceased
24 advising her to claim such a preference?

25 A Yes.

1 Q Now I want to ask you about the diversification
2 preference that's set forth in paragraph two. And I notice
3 that you have -- or strike that. I notice that the box two,
4 yes X, and there's an X next to S, yes. Do you see that?

5 A Yes, sir.

6 Q Paragraph two?

7 A Yes, sir.

8 Q The diversification preference?

9 A Yes, sir.

10 Q What was your advice as to the basis for claiming
11 the diversification preference?

12 A It was based on the fact that only Dr. Crouch was a
13 director of Translator TV and also a director of Trinity
14 Broadcasting Network.

15 Q Now I'm informed that Mrs. Janet (sic) Crouch was
16 added to the TBN board on May 27, 1983, and I think that's in
17 Bureau Exhibit 57. Do you see that? June 1, 1983.

18 A Yes. Yes, sir.

19 Q Okay. Now assume for the moment that Janet's, Janet
20 Crouch -- Janice Crouch had not been a TBN board member on
21 February 23rd, 1984, in your opinion, could Translator
22 Television, Inc. claim the diversification preference? Do you
23 understand the question?

24 A I, I think so.

25 Q Let me just put it to you again. Assume that

1 Mrs. Crouch had not --

2 JUDGE CHACHKIN: He understand the question.

3 MR. COHEN: Oh.

4 JUDGE CHACHKIN: He can answer it.

5 MR. COHEN: Oh, he does, okay. I didn't know that.

6 Oh, thank you, Your Honor.

7 MR. MAY: Yes, I think they could have claimed it,

8 in spite of the fact that Mrs. Jan Crouch was a director. And

9 my calculation would have simply been that, again, Dr. Crouch

10 was the only common director as between National Minority and

11 Trinity Broadcasting Network. It says here exceeding

12 50-percent, which I assume means that if it is 50-percent, you

13 could still certify the box, and at that time it would have

14 been two directors of Trinity, Mr. Norm Juggert and

15 Dr. Crouch. I believe they could have certified it then, as

16 well.

17 MR. COHEN: Your Honor, could we go off the record

18 for one second?

19 JUDGE CHACHKIN: Yes.

20 (Whereupon, a brief recess was taken.)

21 JUDGE CHACHKIN: All right. Back on the record.

22 MR. COHEN: Thank you, Your Honor. Now, I now want

23 to -- I'm not going to ask you any more questions about the

24 diversification preference. I'm going to let that pass for a

25 moment. But I want to ask you about the minority preference.

1 I want you to refer to paragraph 17 of your written testimony
2 and read it to yourself.

3 JUDGE CHACHKIN: That's Exhibit 105.

4 MR. COHEN: Exhibit 105, yes.

5 JUDGE CHACHKIN: Yes, Trinity Exhibit 105.

6 BY MR. COHEN:

7 Q Tell me when you've read it to yourself.

8 A I've read it, sir.

9 Q Okay. Am I correct that you could not have advised
10 Mrs. Duff to claim a minority preference if, in 1984, you had
11 knowledge that David Espinoza was not carrying out his
12 responsibilities as a director, as provided for in Article
13 Three of the corporation's by-laws?

14 A I -- well, I don't know specifically about Article
15 Three of the by-laws --

16 Q Well, why don't you look at them then and I'll --
17 that's a statement of purpose, but I'd like you to look at
18 them. And that is Exhibit --

19 (Asides.)

20 Q -- that would be Bureau Exhibit 9.

21 A Now is it all right if I refer to the copy that I
22 attached to Exhibit F here?

23 Q Sure, sure, sure, sure. Sure. Absolutely. And
24 they're in several places in the record. No problem.

25 A I, I've referred now to that Article Three of the

1 by-laws. Could, could I trouble you to please ask the
2 question again, sir?

3 Q Sure. Am I correct that you couldn't have advised
4 Mrs. Duff to claim a minority preference if you had knowledge
5 that David Espinoza was not carrying out his responsibilities
6 as a director, as provided for in Article Three of Translator
7 Television, Inc.'s by-laws.

8 Q If David Espinoza was not a director and fulfilling
9 his responsibilities, yes, sir, I think that's right. If I'd
10 have known that, I wouldn't have been able to say to her
11 you've got a majority number who are minorities on your board.

12 Q Thus, you would agree then that the, the, the key is
13 that the director has to be carrying out the responsibilities
14 that the by-laws provide for in Article Three?

15 A Yes, sir. Plus, I suppose, complying with state
16 law, if there's some special or other requirement that a
17 director may have. I mean the point is they have to be
18 directors.

19 Q And they have to be directors in more than name
20 only, isn't that correct?

21 A Yes. They have to be directors. I mean with, with
22 what that term means, directors as defined --

23 Q And what is --

24 A -- in the by-laws, state law.

25 Q Well, what does the term mean to you, Mr. -- strike